



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,655	01/15/2004	Jeffrey O. Meredith	8443-PA01	5890

27111 7590 09/15/2004

GORDON & REES LLP  
101 WEST BROADWAY  
SUITE 1600  
SAN DIEGO, CA 92101

EXAMINER
----------

DAVIS, CASSANDRA HOPE

ART UNIT	PAPER NUMBER
----------	--------------

3611

DATE MAILED: 09/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/758,655

Applicant(s)

MEREDITH, JEFFREY O.

Examiner

Cassandra Davis

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-22 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 3, 8, 13, 14, 16, 17, 18, and 19 rejected under 35 U.S.C. 102(b) as being anticipated by Cockerham et al., U. S. Design Patent D 439,214.

3. Cockerham teaches a magnetic arm ornament for the door of a motor vehicle comprising a planar member having a predetermined periphery with a shape which simulates at least part of a human arm including an upper arm portion, an elbow portion, a lower arm portion, and a hand portion simulating at least part of a hand. (See figures 1 and 2). The upper arm portion having a straight upper edge forming part of the periphery of the member. (See figures 1 and 2). The title of the invention indicates that the ornament is magnetic. The ornament taught by Cockerham is adapted to have the straight upper edge of the upper arm portion of the ornament abuts the lower straight edge of a window of the vehicle door, whereby the appearance of the ornament can mimics that of a person in the vehicle hanging their arm out of the open window.

With respect to claim 2, the ornament taught by Cockerham is a flat, planar member. (See figures 3-6).

With respect to claim 3, Cockerham teaches that the ornament is magnetic. It is inherent that the magnetic properties of the ornament provide the securing mechanism for magnetically adhering the sign to a vehicle door.

With respect to claim 8, the front surface of the ornament taught by Cockerham has indicia show the contour of the muscles of the arm.

With respect to claims 13-14, Cockerham teaches the shape of the periphery of the ornament simulates a bent arm with a bent elbow region between the upper and lower arm portions. Cockerham also teaches the hand portion represents a complete hand.

With respect to claim 16, the indicia on the front surface of Cockerham give the appearance three-dimensional appearance of a forearm.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cockerham et al. With respect to claims 9, 10, and 11, Cockerham clearly teaches indicia representing a human forearm. Cockerham does not teach the specific claimed indicia such as the shadow region, the sleeve and wrist band. However, since the indicia do not have an unobvious functional relationship with the substrate or sign member, the indicia is consider a design consideration. The examiner contends that it

would have been obvious to one having ordinary skill in the art to construct the magnetic ornament taught by Corkerham with representing a verity of modified forearms such as a feminine forearm or a clothed forearm to provide a means to enhance the aesthetic appearance of the ornament.

With respect to claims 12 and 15, since the applicant does not disclose that the indent of the sleeve portion of the sign solves any stated problem or if for any particular purpose, it appears that construct the shape of the forearm of any suitable shape to show either a clothed forearm or naked forearm to enhance the indicia thereon would perform equally well.

5. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cockerham et al. in view of Baskerville, U. S. Patent Applicant Publication 2004/0148830A1.

With respect to claim 4, Baskerville teaches a magnetic vehicle sign comprising sign board 10 made of a flexible sheet of rubber material impregnated with ferromagnetic particulate which adhere the signboard 10 to the metal body of vehicle by magnetic attraction. (See paragraph [0022]).

Although neither Corkerham or Baskerville teaches the ornament/sign being die cut, since the applicant does not disclose that die cutting solves any stated problem or is for any particular purpose, it appears that cutting or forming the shape of the sign using any suitable means would perform equally well.

It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the magnetic ornament taught by Cockerham made of

a flexible rubber magnetized sheet as taught by Baskerville to provide a light weight material and a material which can be rolled or otherwise deformed when not in use.

Claims 4, 5, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cockerham et al. in view of Buhler, U. S. Patent 6,041,534.

Buhler teaches flexible magnetic panel for attached to the side of vehicle comprising a panel 10 having a top layer 12 and a bottom layer 14, wherein the bottom layer is made of a rubber magnetized sheet. (See column 2, lines 64-67).

Since the applicant does not disclose that die cutting solves any stated problem or is for any particular purpose, it appears that cutting or forming the shape of the sign using any suitable means would perform equally well.

It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the magnetic ornament taught by Cockerham made of a flexible rubber magnetized sheet as taught by Buhler to provide a light weight material and a material which can be rolled or otherwise deformed when not in use.

Claims 6, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cockerham in view of Olson, Jr., U. S. Patent 6,367,182. Olson teaches a flexible license device comprising a plate 16 having an upper face 22 and a lower face 23. Olson also teaches a plurality of suction cups 30 for removably mounting the plate to a vehicle. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the ornament taught by Cockerham with suction cups as taught by Olson to provide a means to removably attach the ornament to a non-metallic surface.


***Allowable Subject Matter***

6. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 703-308-2223. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cassandra Davis  
Primary Examiner  
Art Unit 3611

CD  
September 9, 2004